

Appln No. 10/757,637
Amdt date January 17, 2008
Reply to Office action of October 13, 2006

REMARKS/ARGUMENTS

The above identified patent application has been amended and reconsideration and reexamination are hereby requested.

Claims 1-6, 10-18, and 20-24 are now pending in the application. Claims 1, 4-5, 10, 16-17, and 22-23 have been amended. Claim 24 is new. Claims 7-9 and 19 have been previously canceled. The Examiner has allowed Claims 10-18 and Claims 20-23 if rewritten to overcome the rejections cited under 35 U.S.C. § 101 and/or 35 U.S.C. § 112.

The Applicant thanks Examiner Nelson for the Examiner Interview conducted on January 16, 2008. In the interview, the rejection under 35 U.S.C. § 101 was discussed. The Examiner stated that the rejection would be overcome in Claim 16 by clarifying the comparing limitation and the stated method purpose.

Claim Rejections - 35 U.S.C. § 112

The Examiner has rejected Claims 4-5 and 22-23 under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting the essential step of "determining if the comparison exceeds a predetermined value." Accordingly, Claim 4-5 and 22-23 have been amended to include the above step.

The Examiner has rejected Claims 4-5, 10, and 22-23 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Examiner states that Claims 4-5, 10, and 22-23 are rejected because applicant has not provided an alternative "if not" statement.

The Applicant has amended Claims 22-23 to provide an alternative "if not" statement and has amended Claims 4-5 to specify that the step is performed "when the comparison exceeds the predetermined value" and Claim 10 to specify that the step is performed "when the consistency indicator meets a predetermined requirement."

If the Examiner maintains the rejection under 35 U.S.C. § 112, the Applicant respectfully requests that the Examiner provide support for the rejection from the MPEP. Accordingly, the Applicant submits that the rejection of Claims 4-5, 10, and 22-23 under 35 U.S.C. § 112 should

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be withdrawn. Therefore, the Applicant submits that Claim 10 is allowable. Claims 11-15 and new Claim 24 are dependent on Claim 10 and therefore include all of the limitations of Claim 10 and additional limitations therein. As such, these claims are also allowable based upon Claim 10 and the additional limitations therein.

Claims Rejections - 35 U.S.C. § 101

The Examiner has rejected Claims 16-18 and 20-23 under 35 U.S.C. § 101 because the claimed invention is purportedly directed to non-statutory subject matter. The Applicant thanks Examiner Nelson for the Examiner Interview conducted on January 16, 2008. In the interview, the rejection under 35 U.S.C. § 101 was discussed. The Examiner stated that the rejection would be overcome by clarifying the comparing limitation and the stated method purpose.

Accordingly, Claim 16 has been amended to include (underlining added for emphasis) "A method for determining whether a cruise price being charged by a vendor provides cost savings to a consumer based on pricing data for a one or more cruises for a period of time comprising: electronically obtaining pricing data for one or more cruises; creating, using a processor, a regression formula based on the pricing data, where the regression formula is a function of at least one price affecting factor; calculating an expected price of a specific cruise based on the value of at least one price affecting factor of the specific cruise and the regression formula; and comparing the cruise price being charged with the expected price to determine the cost savings to the consumer." Support for this amendment is found on pages 18 and 19 of the present patent application. See specifically, the paragraph beginning on page 18, line 22 through page 18, line 31.

The Applicant points the Examiner to MPEP 2106, section II, subsection A, where *State Street* is discussed. Like *State Street*, the transformation of data to determine an expected price constitutes a practical application of a mathematical algorithm, formula, or calculation, because it produces a useful, concrete, and tangible result -- the expected price is momentarily fixed for determining a cost savings to a consumer and a consumer may then rely upon the expected price/cruise price comparison and the determined cost savings in order to purchase a cruise trip.

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Accordingly, the Applicant submits that the rejection of Claims 16-18 and 20-23 under 35 U.S.C. § 101 should be withdrawn. Therefore, the Applicant submits that Claim 16 is allowable. Claims 17-18 and 20-23 are dependent on Claim 16 and therefore include all of the limitations of Claim 16 and additional limitations therein. As such, these claims are also allowable based upon Claim 16 and the additional limitations therein.

Claims Rejections - 35 U.S.C. § 103

The Examiner has rejected Claims 1-2 under 35 U.S.C. § 103(a) as being unpatentable over Rozell et al. (US Patent Publication 2005/0004830). The Examiner has rejected Claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Rozell et al. in view of Laufer (US Patent Publication 2004/0006507). The Examiner has rejected Claims 4-6 under 35 U.S.C. § 103(a) as being unpatentable over Rozell et al. in view of Sprenger et al. (US Patent Publication 2003/0040946).

The amended Claim 1 includes "... comparing data based on the calculated one or more correlation coefficients and the one or more price affecting factors with the pricing data to determine if the data is consistent." The Applicant submits that the above limitations as claimed in Claim 1 are neither taught nor suggested nor are an obvious result from a reasonable combination of the teachings in the reference Rozell et al.

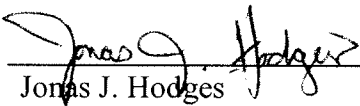
Rozell et al., while providing for the results of the various hotel marketability index components multiplied by weights, which are summed into a single score (paragraph [0023]), does not teach "comparing data based on the calculated one or more correlation coefficients and the one or more price affecting factors with the pricing data to determine if the data is consistent."

Accordingly, the Applicant submits that the cited references do not teach or suggest all of the claim limitations, and therefore Claim 1 is patentable over Rozell et al. Claims 2-6 are dependent on Claim 1 and therefore include all of the limitations of Claim 1 and additional limitations therein. As such, these claims are also allowable based upon Claim 1 and the additional limitations therein.

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Therefore, in view of the above amendment and remarks, the Applicant respectfully submits that the claims are patentably distinct over the prior art and that all the rejections to the claims have been overcome. As such, allowance of the above Application is requested. If there are any remaining issues that can be addressed over the telephone, the Examiner is cordially invited to call the Applicant's attorney at the number listed below.

Respectfully submitted,
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